

REMARKS

Claims 1 to 17 are now pending. Claims 1 to 8, 10 to 12 and 15 to 17 have been amended in order to correct informalities in the claims. Such amendments to the claims are shown via strikeouts (deletions) and underlining (additions). No new matter has been added.

Applicants respectfully request reconsideration of the present application in view of this response.

With respect to paragraph one (1) of the Office Action, claims 1 to 17 were rejected under 35 U.S.C. § 112, first paragraph, for written description.

The present invention concerns a device and method for receiving data transmitted using asynchronous data transmission technology to which a data-independent clock signal is added, having a memory device, which stores the received data for the required period of time in order to compensate for transmission delays, the clock signal being sent to the memory device for readout of the data. The Office Action questions how the clock signal is transmitted between or among the studios. The clock signal can be from, among other things, a studio clock, effecting a master/slave relationship with the other studios, or it can be from a network clock. See Specification, page 3, lines 24-27; page 8, lines 3-8. The Specification at page 5, lines 15-26 and line 33 to page 6, line 5, referring to Fig. 1, in an embodiment of the present invention, studio 1 has a transmitter 7 which is connected to the transmission link 5 on the receiver side. The transmitted transmits data to the terminal adapters which adapts the data coming in and can include the recovery of the clock rate used on the transmitter side. Id. In further embodiments, the Specification describes that the studio clock rate 21 of studio 1 is transmitted to studio 3 via transmission link 5 for synchronization. Specification, page 7, lines 17-19. The Specification, at page 7, lines 19-26, further indicate that in selecting the transmission channel it must be ensured that the clock signal is transmitted with the highest priority with the least possible interference. The clock can be synchronized with another device, not synchronized with the clock of the transmitting device, synchronized via an external normal clock rate, and/or adjusted using a plus/zero/minus packing procedure. See Specification and claims 5, 6, 8, 10, 11, and 13 to 16. Thus, given the various embodiments of the present invention, the clock signal can be transmitted in various ways between and/or amongst the studios. Applicants believe that the

claims (as amended above) now represent this and that the Specification along with the knowledge of one of ordinary skill in the art amply describes this.

The Office Action also questions how the clock signal is used to set the clocks using the FIFO to shift interferences. The Specification addresses this issue in various embodiments. The Specification at page 2, lines 28-36, describes that by implementing a sufficiently large memory device in the transmitter, the data received is stored during a period required for compensating transmission delays, and by the studio clock signal being sent to the memory device for reading the data. This provides that the “wander” resulting in disturbance of the signal can be compensated for or the period between the two disturbances caused by the “wander” can be made long enough that the effect of the disturbances is reduced, especially if the disturbances occur at nighttime. Id. The Specification at page 3, lines 16-22, further explains that FIFO is useful when the memory is sized so that data can be stored for a given period. The period is obtained by the number of possible switching studios within a transmission link, with $100 \mu s$ per switching node to be assumed for a non-busy network and approximately $250 \mu s$ for a busy network. Id. The Specification further explains that in the case of non-synchronized studios, a means is provided which is designed to match the clock rate of the received data stream to the studio clock rate by detecting points in time when the digital signal distortion after digital-to-analog reconversion results in no significant signal deterioration. Specification, page 3, lines 30-37. For example, in an audio signal, the instant is detected when the state of pause (no signal) is detected in the signal over several samplings. And, in a video signal, the image boundaries are detected and entire images are omitted or read twice. Specification, page 3, line 36 to page 4, line 3.

The Specification describes further details regarding the FIFO memory – such as an embodiment the FIFO memory 19 is dimensioned so that the transmission technology-related time delays are compensated for – delays like Cell Delay Variation (CDV). Specification, page 6, lines 23-28. Data is stored in the FIFO memory 19 and then read out at the studio clock rate and sent downstream to a decoder (the decoder may also receive the studio clock rate, to assist in further processing). Specification, page 6, lines 30-36. In an embodiment, a control unit is used for the readout of data from the FIFO memory at a clock rate provided by the clock of a studio. Specification, page 6, lines 12-15. The control unit can also be

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equipped with means for adjusting the clock rate of the received data stream to the studio clock rate. Specification, page 8, lines 31-33.

Accordingly, in light of Applicants' disclosure in the Application, some of which is highlighted above, Applicants respectfully submit that claims 1 to 17 are supported by the written description in the Specification and thus are allowable; Applicants request that the rejection of claims 1 to 17 under 35 U.S.C. § 112, first paragraph, be withdrawn.

With respect to paragraphs two (2) and three (3) of the Office Action, claims 1 to 3, 5 to 8 and 10 to 15 were rejected under 35 U.S.C. § 102(b) as anticipated by the publication of Hessenmueler et al. ("the Hessenmueler reference").

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(b), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See Scripps Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim limitations be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the claimed subject matter of the claims, as discussed herein. (See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)). In particular, it is respectfully submitted that the reference relied upon would not enable a person having ordinary skill in the art to practice the subject matter of the claims as presented.

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Examiner must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art." (See M.P.E.P. § 2112; emphasis in original; and see Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'l. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic. Accordingly, it is respectfully

submitted that any anticipation rejection premised on the inherency doctrine is not sustainable absent the foregoing conditions.

The Hessenmueler reference, dated "received in November 1990," purportedly concerns broadband ISDN where the ATD (asynchronous time-division multiplexing technique) cell losses have an adverse effect on the quality of service. Hessenmueler reference, Abstract. The Hessenmueler reference describes a method which allows the correction of cell losses by combining a forward error correction with a bit/byte interleaving technique on the basis of the (5+48)-byte cell format recommended by the CCITT.

In contrast, amended claim 1 recites a device for receiving data transmitted using asynchronous data transmission technology to which a data-independent clock signal is added; the device includes a memory device which stores the received data for a required period of time in order to compensate for transmission delays, and that the clock signal is sent to the memory device for readout of the data.

The Hessenmueler reference does not identically describe each and every feature, as it must for anticipation, of claim 1. Specifically, the Hessenmueler reference does not describe a device having a memory device which stores the received data for a required period of time in order to compensate for transmission delays, or that the clock signal is sent to the memory device for readout of the data. Instead, the Hessenmueler reference appears to focus on correcting cell loss by manipulating the cell stream by replacing missing cells with dummy cells, discarded redundant cells with the same sequence number and so on. Hessenmueler reference, page 127, column 1. The Hessenmueler reference further refers to coping with error bursts using forward error correction (FEC). Hessenmueler reference, page 127, column 2. Further, the Hessenmueler reference refers to using the received cell-structured network data, after separation of the cell header, to generate a continuous bit-stream or continuous sampling sequence, and that an elastic buffer is "always needed" at the receiving end which is monitored by an up/down counter. Hessenmueler reference, page 128.

Accordingly, the Hessenmueler reference does not identically describe or even suggest each feature of claim 1 and thus, Applicants respectfully request reconsideration of the claim 1, withdrawal of the rejection of claim 1 under 35 U.S.C. § 102(b) and allowance

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of claim 1. Claim 10 recites features analogous to those of claim 1 and is thus allowable for at least essentially the same reasons as claim 1. The remaining cited claims depend from either claim 1 or claim 10 and are allowable for essentially the same reasons as claim 1 or claim 10.

It is therefore respectfully submitted that claims 1 to 17 are allowable.

CONCLUSION

In view of the foregoing, it is believed that the rejections have been obviated, and that claims 1 to 17 are allowable. It is therefore respectfully requested that the objections and rejections be withdrawn, and that the present application issue as early as possible.

Should the Examiner wish to discuss the present application, the Examiner is invited to contact the undersigned at any time.

Respectfully submitted,
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